

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

JEFFREY LEE MOURNING,

Plaintiff,

-against-

CHRISTOPHER WRAY, et al.,

Defendants.

23-CV-5109 (LTS)

ORDER

LAURA TAYLOR SWAIN, Chief United States District Judge:

By order dated June 22, 2023, the Court directed Plaintiff to either pay the \$402.00 in fees that are required to file a civil action in this court or submit a completed prisoner authorization within 30 days. That order specified that failure to comply would result in dismissal of the complaint. On July 20, 2023, the Court received from Plaintiff a letter in which he indicated that he did not intend to submit the required prisoner authorization. Plaintiff asserted that he had “completed the necessary documentation” to bring this action, and if the Court was “not going to file [his] papers please send them back with a Court Opinion and allow [him] to appeal to the Court of Appeal.” (ECF 6, at 1-2.)

Because Plaintiff did not pay the fees or submit a prisoner authorization within the 30-day deadline, by order and judgment dated July 24, 2023, the Court dismissed Plaintiff’s complaint without prejudice.

Several weeks later, on August 21, 2023, the Court received from Plaintiff a prisoner authorization in this closed case. Although the prisoner authorization was filed beyond the 30-day deadline for doing so and is untimely, Plaintiff did not submit a motion for reconsideration or an explanation as to why he failed to timely comply with the Court’s June 22, 2023 order. The Court therefore declines to construe Plaintiff’s untimely submission of the prisoner authorization

as a motion for reconsideration, or to vacate the July 24, 2023 order of dismissal and judgment and reopen this action. The Clerk of Court is directed to terminate all pending matters in this closed case. Should Plaintiff wish to pursue his claims, he may file a new case accompanied with the required fees or a completed request to proceed *in forma pauperis* (“IFP”) and a prisoner authorization.

CONCLUSION

The Court declines to construe Plaintiff’s untimely submission of the prisoner authorization as a motion for reconsideration, or to vacate the July 24, 2023 order of dismissal and judgment and reopen this action. All other pending matters in this closed case are terminated.

The Court certifies under 28 U.S.C. § 1915(a)(3) that any appeal from this order would not be taken in good faith, and therefore IFP status is denied for the purpose of an appeal.

Cf. Coppededge v. United States, 369 U.S. 438, 444–45 (1962) (holding that an appellant demonstrates good faith when he seeks review of a nonfrivolous issue).

SO ORDERED.

Dated: September 11, 2023
New York, New York

/s/ Laura Taylor Swain

LAURA TAYLOR SWAIN
Chief United States District Judge